

### **REMARKS**

Claims 1, 3-7, 9-22, 24-36, 39-40 and 44 are pending in this patent application. Claims 1, 22 and 44 have been amended. Claims 2, 8, 18-19, 23, 37-38, 42-43 and 45-63 have been cancelled.

#### **35 U.S.C. § 112 First Paragraph**

Claims 18-19 and 37-38 and 42 have been cancelled.

#### **35 U.S.C. § 102(e)**

Claim 1 has been amended to include the subject matter of claim 2. Claims 1, 2, 6, 8-14, 16, 20, 22, 23, 27, 29-33, 35, 39, 59 and 61-63 were rejected under 35 U.S.C. 102(e) as being anticipated by Bare (US Patent No. 6,556,541). Bare fails to teach at least one element of each of claims 1 as amended and therefore cannot anticipate any of these claims.

Bare does not teach at least “wherein a discovery, including that of a network topology, facilitates the network monitoring and type of undesirable behavior determination.” Bare discloses “monitoring of the packet data by switch control 3204” column 11, lines 42-44, that the “[s]witch control 3204 controls the ‘forwarding’ of received packets to appropriate locations within the switch for further processing and/or for transmission out another switch port,” column 12, lines 5-7, and the processing of particular types of situations such as a “received packet destined for an unknown destination address”, handling blocked ports, and processing when a source MAC address is received on a load balance port other than the load balance port it was programmed to transmit out of.” Column 12, lines 52-60. These examples of processing of packets at one switch in specific scenarios do not teach or suggest a “discovery, including that of a network topology” and furthermore more does not teach discovery of a network topology which “facilitates the network monitoring and type of undesirable behavior determination.” Therefore, claim 1 is patentable over Bare as are its dependent claims 3-7 and 9-21. Similarly, claim 22 has also been amended to include the subject matter of former claim 23 “wherein means for discovery, including that of a network topology, facilitates network monitoring and type of undesirable behavior determination.” Therefore, claim 22 and its dependent claims 24-36, 39-40 and 44 are patentable over Bare.

### **Various 35 U.S.C. 103(a) Rejections**

In view of the arguments presented for the rejections against the independent amended claims 1 and 22, these claims are believed to be in form for a notice of allowance. Therefore, their dependent claims are believed to be allowable over the various 103(a) rejections asserted against them as well.

### **Conclusion**

In light of the amendments presented above, pending claims 1, 3-7, 9-17, 20-22, 24-36, 39-40 and 44 as amended are in condition for allowance, and applicants respectfully request a notice of allowance.

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